

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Connect America Fund)	WC Docket No. 10-90
Establishing Just and Reasonable Rates for)	
Local Exchange Carriers)	WC Docket No. 07-135
High-Cost Universal Service Support)	WC Docket No. 05-337
Lifeline and Link-Up)	WC Docket No. 03-109
Developing a Unified Intercarrier)	CC Docket No. 01-92
Compensation Regime)	
Federal State Joint Board on Universal Service)	CC Docket No. 96-45
A National Broadband Plan)	
For Our Future)	GN Docket No. 09-51

**REPLY COMMENTS
OF
THE MARYLAND PUBLIC SERVICE COMMISSION**

The Maryland Public Service Commission ("Maryland PSC") hereby submits these Reply Comments in response to the August 3, 2011 Public Notice captioned *Further Inquiry Into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding (Public Notice or PN)*.¹ The *PN* seeks comment on several critical issues related primarily to several proposals for comprehensive reform of the Federal Universal Service Fund (FUSF) and interstate and intrastate intercarrier compensation (ICC) in a manner to promote national broadband deployment.

The Maryland PSC commends the FCC for its efforts to address the longstanding and complex issues involved in reforming the federal universal service and intercarrier compensation

¹ *Further Inquiry Into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding*, Public Notice, DA 11-1348 (August 3, 2011) .

programs. However, the Maryland PSC believes as recognized by the FCC that “USF and ICC are both hybrid state-federal systems, and that reforms will work best with the Commission and State regulators cooperating to achieve shared goals.”²

To that end, the Maryland PSC echos the sentiment expressed in the Virginia State Corporation Commission (“VSCC”) and other state commissions’ filings in this proceeding that the FCC provided too short a time period for interested parties to file comments and reply comments on the numerous questions raised in this notice.³ The industry-driven proposal, known as the “America’s Broadband Connectivity Plan” (“ABC Plan”), raises several complex issues and jurisdictional questions that may have significant impacts on states authority to regulate intrastate telecommunications. Given the complexity of the ABC Plan and the need for states to evaluate fully how such proposal would impact its local exchange carriers, broadband providers and consumers, Maryland PSC agrees with VSCC and others that in fairness to all interested parties the FCC should have extended the comment cycle as requested by several timely filed motions for extension of time.⁴ Maryland PSC acknowledges that the FCC issued an Order granting a six day extension to file reply comments.⁵ Nonetheless, the Maryland PSC

² *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal State Joint Board on Universal Service; Lifeline and Link-Up*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92; 96-45; GN Docket No. 09-51, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4544 (2011).

³ See Virginia State Corporation Commission Comments at 1-2.

⁴ See VSCC Comment at 2 including FN2 citing several parties *Motions for Extension of Time* including NASCUA Motion for Extension of Time filed on August 4, 2011, Motion of NARUC for Extension of Time filed on August 5, 2011, and State Members Support for NASUCA Motion filed on August 5, 2011.

⁵ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal State Joint Board on Universal Service; Lifeline and Link-Up*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92; 96-45; GN Docket No. 09-51, Order, DA 11-1471, (rel. August 29, 2011).

maintains that due to “the complexity and significance of the issues addressed”⁶ additional time was warranted for interested parties to deal with the issues adequately.

The ABC Plan proposes that the FCC preempt or inhibit states from carrying out their duties in several areas including 1) elimination of the states’ ability to impose carrier of last resort obligations on carriers that operate within the state; and 2) elimination of the states’ authority to designate Eligible Telecommunications Carriers. In addition, the ABC Plan’s proposed mechanism for recovering decreased access charges would result in increased local service rates, a direct responsibility of state governments. The Maryland PSC opposes any portions of the ABC Plan that would lead to limiting or preempting the state and District commissions’ authority over rates, terms and conditions of services within the state’s legal jurisdiction.

I. State Regulation of Intrastate Access Charges Should Not Be Preempted By the FCC

The Maryland PSC is charged with the responsibility for regulating telecommunications common carriers within the State of Maryland. Moreover, it has the obligation to ensure that telecommunication services are universally and adequately provided to all Maryland consumers at rates that are just and reasonable. *See Md. Pub. Art. § 4-101.*

Maryland has a long history of providing significant support of the federal universal service funds program. Maryland, being a low-cost state for purposes of the FUSF, is a high net contributor to the FUSF compared to other states. A June 2011 FCC report to Congress shows that in 2010 Maryland’s contribution to FUSF was estimated at \$176,596 million, yet the state was expected to receive via payments to service providers an estimated total of *only* \$28,887

⁶ *Id* at 1.

million from FUSF.⁷ Of the \$28,887 million in FUSF, \$3,767 million were for high-cost support, \$11,037 million for low-income support and \$14,082 million for schools and libraries.⁸ Based on this estimate, Maryland receives back in compensation less than 20% of its total contribution to the FUSF. This pattern has persisted since the inception of the FUSF.

The FCC now proposes through the adoption of the ABC Plan to implement a restructuring of the FUSF/ICC that preempts states from regulating access charges by establishing uniform interstate and intrastate transport and termination access charges. Additionally, the ABC Plan proposes to increase subscriber line charges (SLC) to the detriment of Maryland's telephone customers. The ABC Plan is a mechanism that will increase Maryland's FUSF contribution without providing any additional reciprocal benefit to Maryland consumers.

The Maryland PSC strongly urges the FCC not to adopt any proposal that usurps the State's historic responsibility of addressing important local concerns and rate matters related to terms and conditions of intrastate service, intrastate public policy efforts such as Telecommunications Relay Service (TRS), intrastate universal service, intrastate 911, and intrastate service quality. Adoption of the ABC Plan as proposed places at risk the Maryland PSC's authority under state and federal law to fulfill its historical regulatory mandate.

The Maryland PSC urges the FCC to adopt plans that avoid preemption, its constructive equivalent, or a forbearance that will overturn or render as a nullity long-standing intrastate statutes, policies, and regulations. Additionally, Maryland PSC objects to rationalizing

⁷ See Federal Communications Commission Response to United States House of Representatives Committee on Energy and Commerce Universal Service Fund Data Request of June 22, 2011. Request 1 State-by-State USF Support, Estimated Contributions and Estimated net Dollar Flows and State-by-State Top Recipients of High Cost Support (2010, 2009, 2008), Chart 1, pp. 1.

⁸ *Id.*

preemption on the basis that state jurisdictional boundaries are irrelevant as a result of increases in telecommunications traffic originating and terminating on mobile and Internet-based devices with no fixed locations. While Maryland, like many jurisdictions, has experienced a decrease in subscriber lines and an increase of consumers using mobile devices, the Maryland PSC does not agree that such trending can or should be used as justification to preempt state authority in regulating intrastate telecommunications.

II. Overarching Public Policy Concerns

As makers of public policy affecting telecommunications at the state level, the Maryland PSC must question the value Maryland customers would receive if adoption of the ABC Plan continued Maryland's high net contribution to FUSF, increased local rates to its citizens, did little if anything to advance broadband availability in Maryland *and* preempted the State's traditional authority regarding telecommunications regulation. There is no reason to depart from current legal and policy structure. No short-term interest, including the current focus on a national broadband deployment policy, justifies abandoning our long-standing and workable constitutional structure. There is no short-term plan aimed at reform or broadband deployment that warrants jettisoning joint federal-state cooperation in favor of centralized mandates imposed on the state and District commissions including the Maryland PSC. That kind of result undermines the FCC's goal of universality of telecommunications and broadband service to all Americans.

III. Conclusion

The Maryland PSC has long been responsible for effectively addressing and resolving intrastate matters within its traditional purview, and like other state commissions, has been a long-standing partner working with the FCC in addressing interstate matters as well. That said, the Maryland PSC respectfully requests that the FCC carefully consider the foregoing comments; that the FCC not adopt the ABC Plan and not preempt state authority to regulate intrastate access charges and other intercarrier compensation.

Respectfully submitted,
Maryland Public Service Commission

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Dated: September 1, 2011